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LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

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June 14, 2006

Captain Raymond Peavy
Homicide Bureau
Los Angeles County Sheriff's Department
5747 Rickenbacker Road
Los Angeles, California 90040

Re: J.S.I.D. File # 06-0150
L.A.S.D. File # 406-04137-2826-051

Dear Captain Peavy:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 10, 2006 non-fatal shooting of Alexander Diaz by Los Angeles County Sheriff's Deputies Robert Dean and Andrew Toone. We have reviewed the deputies' voluntary statements. We have concluded that Deputies Dean and Toone acted lawfully in self-defense.

This conclusion is based upon examination of the reports and tape recordings submitted to this office on May 9, 2006 by Sergeant Shannon Laren of the Sheriff's Homicide Bureau. The District Attorney's Command Center was notified of the shooting on March 10, 2006, at approximately 10:30 p.m. Deputy District Attorney Corene Locke-Noble and District Attorney Senior Investigator [redacted] responded to the location of the shooting and were given a briefing by investigators from the Sheriff's Department.

FACTUAL ANALYSIS

On March 10, 2006 Alexander Diaz, Eduardo Edrosa, Angel Leon and [redacted] met with [redacted] in the city of Compton to arrange a narcotics transaction. The transaction was to involve the purchase of powder cocaine, possibly worth $350,000. In order to complete the transaction, the men planned to travel to another residence located in Compton. Edrosa, Diaz and Leon entered a black Nissan Altima belonging to [redacted]

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[redacted] and [redacted] followed in a second vehicle. While driving to the secondary location, Leon, Diaz and Edrosa observed a police vehicle passing them, while shining a spotlight into their vehicle. When the three men arrived at their destination at [redacted] they parked in the driveway. At this point, the police vehicle reappeared and the two deputies emerged from the car. Edrosa panicked, removed a gun from his clothing and threw it into the backseat of the Altima. Leon frantically attempted to kick the weapon under the driver's seat in an attempt to conceal it from the deputies.

Deputies Robert Dean and Andrew Toone, having observed the startled expressions on the three men's faces and suspecting that criminal activity was afoot, had decided to follow the Altima. When the car stopped, the deputies approached its occupants on foot. As the deputies stood near the Altima during the initial contact with its occupants, Deputy Toone observed Leon lean forward and attempt to place a dark object, later determined to be Edrosa's gun, under the driver's seat. Deputy Dean requested that the driver, Alexander Diaz, produce a driver's license. When Diaz stated that he did not have a driver's license, Deputy Dean ordered him to step from the vehicle. Deputy Dean decided to pat down Diaz for weapons but, as he guided him toward the Altima, Diaz suddenly ran from Deputy Dean. As he ran, he removed a black semiautomatic pistol from his waistband with his right hand. Both deputies began to chase Diaz for approximately ten to twenty feet between the police car and a vehicle parked along the curb. The deputies were unaware that Diaz had apparently discarded the pistol in the street behind their patrol car.

During the pursuit, Diaz abruptly stopped, turned to his left and confronted Deputy Dean. According to Deputy Dean, Diaz appeared to be holding the pistol. Believing he was going to be shot, Deputy Dean fired two rounds at Diaz from his duty weapon. Diaz continued to run and Dean pursued him. As Diaz approached the driveway of the residence at [redacted] North Muriel Avenue, he again abruptly turned toward Deputy Toone. Deputy Toone observed that Diaz concealed his hands near his waistband, as if reaching for something. Deputy Toone believed that Diaz was armed with a weapon and, in response, fired two rounds from his duty weapon. He observed Diaz turn around, take two additional steps and fall onto the driveway of the residence. Initially Diaz concealed his hands under his body and he refused to display his hands to be handcuffed. When the deputies took Diaz into custody, they realized that he had been shot in his left bicep. No other gun or weapon was found to be in his possession.

Investigators recovered a 9 millimeter semiautomatic Hi-Point pistol from the curb near the deputies' patrol car. The pistol contained a magazine loaded with nine live rounds. Investigators also recovered a .45 caliber Hi-Point pistol from under the driver's seat of the Nissan Altima. The pistol contained a magazine loaded with seven live rounds. The Altima also contained a ski mask with two eye holes, a role of heavy duty duct tape and a pair of black knit gloves.

Paramedics responded to the scene and treated Diaz for the gunshot wound to his bicep and transported him to Martin Luther King Hospital. The emergency room doctor cleared Diaz for booking. Diaz was later identified as Alexander Diaz-Rodriguez with a criminal history [redacted]

Investigators interviewed numerous witnesses who heard or saw portions of the incident. [redacted] stated that he was visiting his friend, [redacted] who lived at [redacted] and observed the deputies approach Diaz. He stated that Diaz ran from the deputies and, during the chase, he saw the deputy slap an object out of the suspect's hand. As the deputies continued to chase Diaz, [redacted] stated that he crawled up the driveway of [redacted] and saw that the object in the street was a gun. [redacted] assumed that the deputies had slapped the gun out of Diaz' hand. He stated that he then heard two to three gunshots.

Investigators also interviewed [redacted] who stated that he also was visiting his friend [redacted] He stated that he observed the Sheriff's approach the black vehicle, heard a car door open, the sound of a struggle, a slapping sound and the sound of metal hitting the ground. He stated that he heard one of the deputies yell, "stop," during their chase and then heard gunshots.

None of the other witnesses who heard the sound of a chase or gunshots stated that they observed or heard a slapping noise, including [redacted] of the Altima driven by Diaz.

CONCLUSION

The use of deadly force in self-defense or the defense of others is justifiable if the person claiming the right to use self-defense actually and reasonably believed (1) that he or she, or the person he or she was defending was in imminent danger of death or great bodily injury, and (2) that it was necessary under the circumstances to use deadly force to avoid imminent death or great bodily injury. People v. Williams (1977) 75 Cal. App. 3d 731. *California Jury Instructions; Criminal 5.12 et seq.*

Based on the evidence reviewed in this investigation, the deputies' use of deadly force was reasonable under the circumstances. The deputies followed a car in which the occupants behaved suspiciously. Deputy Toone observed one of the occupants of the car hide an object that was later discovered to be a pistol. Deputy Dean attempted to conduct a pat-down search of Diaz who fled from him and removed a weapon from his clothing. While two witnesses claimed that a deputy slapped the gun from Diaz, it does not appear likely that the deputies were close enough to Diaz during his flight to have disarmed him. Instead, the convincing evidence supports Deputy Toone's statement that they were

unaware that Diaz had discarded the gun and, when Diaz turned toward each deputy, each fired at him while in fear for their own safety.

We find the deputies acted in lawful self-defense. `Therefore, we are closing our file and will take no further action in this matter.

Very truly yours,

STEVE COOLEY
District Attorney

By Linda Reisz

LINDA REISZ
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c: Deputy Robert Dean, Serial No. [redacted]
Deputy Andrew Toone, Serial No. [redacted]